In the High Court of Uttaranchal, at Nainital.

First Appeal No. 652/2001

(Old No. 424 of 1985)

The State of U.P. through Collector
Dehradun .... Appellant

Vs.

Harbans Lal S/o Beli Ram
R/o Prem Nagar, Dehradun ... Respondent.

Hon'ble B.C. Kandpal, J.

This appeal has been preferred by the State , against the judgment and award dated 28-3-1985, rendered by District Judge, Dehradun, in Land Acquisition Reference Case No. 26 of 1980, Harbans Lal Vs. Collector Dehradun, whereby the compensation @ Rs. 13,125/- per acre and interest on the balance amount @ 6% per annum from 25-3-1971 was awarded to the claimant.

2- Brief facts of the case are that the land of land owners, including the respondent, measuring 14-73 acres situated in village Mithi Behri, Pargana Western Doon, District Dehradun was acquired in the year 1963 under the provisions of Defence of India Act 1962(hereinafter called as 'the Act') for the use of the Indian Military Academy, Dehradun. The final acquisition was done by the Central Government under the provisions of 'the Act' and the notice U/S 7 of 'the Act' was issued on 15-3-1971 and since that date the land vested in the Central Government. The land

acquisition Officer by his order dated 30-12 1974 awarded compensation of Rs. 65,495-85 P for this total area of 14-75 acres of land. The land Acquisition Office took into consideration the sale-deed executed in respect of the land of adjoining village Arcadia Grant, as during the period of 1970-71 no land was sold in village Mithi Behri. According to the sale deed the rate of the land was found to be Rs. 5000/- per acre. Further classification of land was done by the L.A.O. as SANKARA II KHAKI AND RONSIL KHAKI, with regard to which the rate is different because of the difference in the circle rate and therefore 6.20 acre land was given compensation @ Rs. 2253=52 per acre and rest of the and was given @ Rs. 5,915=50 P. per acre as the land of Ransli I Khaki category.

3. Against the award of the Land Acquisition Officer, references were filed before the District Judge, Dehradun.

4- The claimants filed separate objections before the Reference Court alleging therein tat the acquired land was having market value of Rs. 6000/- per Bigha and after negotiating with the L.A.O. and the Estate Military Officer it was decided that the land will be acquired at the rate of Rs. 2500/- per Bigha and the claimants had agreed to that rate. It was also alleged that they have already been paid 80% of the compensation which was decided between the parties and now after the award of the L.A.O. notices have been issued for refund of the excess amount.

5- The State Government also submitted its objection before the Reference Court and contended that the market value of the land is Rs. 600/- per

Bigha. It denied that Rs. 2500/- per Bigha was not agreed upon between the parties. It was also alleged that the compensation awarded by the L.A.O. is based on circle rate and also taking into consideration a sale-deed and it is correct.

6- The Reference Court consolidated all the reference cases and decided the same by common judgment. On the basis of the pleading of parties framed the following issues:-

1- Whether the claimants are entitled to compensation @ Rs. 2500/- per Bigha as claimed?. If not its effect?

2- Whether claimants are entitled to any Interest?. If so, at what rate and from which date?.

3- To what relief, if any, are the claimants entitled?.

7- After perusal of evidence and hearing learned counsel for the parties, the learned Reference Court awarded compensation @Rs 13,125/- per Bigha and interest was also awarded on the balance amount of compensation @ 6% per annum from 27-3-1971 till the date of payment.

8- Feeling aggrieved the State has come up in appeal, which was filed before the Allahabad High Court and after creation of new State, the appeal has been transferred to this court.

9- Heard Sri Nand Prasad learned counsel for the State/appellant and perused the record. None has appeared on behalf of the respondent despite service by publication.

10- The learned Standing Counsel appearing on behalf for the State/ appellant has submitted that the Reference Court has failed to appreciate the market value of the land in terms of quality of soil and awarded compensation to the respondent at very high rate without any basis.

11- The only question which arises for determination in this appeal as under:-

"Whether the rate of compensation awarded by the Reference Court to the claimant is just and adequate, or it is on higher side?."

12- In support of their claims, the claimants have examined Kishan Lal, P.W. 1, Mohan as P.W.2 and the State has produced Lekhpal Hukam Chand Agarwal, as D.W.1. The claimant's witnesses have deposed that the disputed land is about 5 Kms. away from Bindal bridge and is on the main Chakrata Road; that the claimants were growing vegetables on this land and were taking three crops from it; that when the land was acquired the claimants were given compensation for the crops standing on the land; that the Military Residential Quarters are at a distance of hardly 50 yards from this land and that the bank is also situated nearby. The claimants also filed paper Nos. 59-C to 65-C which show that compensation regarding the standing crop was also paid to them.

13- The sale deed taken into consideration as exemplar sale deed (paper No. 46-C) belongs to the land situated about one kilometer away from this land and Mohan had sold this land because he had to pay some loan and he was in need of money, as his

children were ill and it can't be a good exemplar sale deed Mohan P.W. 2 has also deposed this fact before the Reference Court. It has also come in the evidence that the disputed land is a potential building site. The witness of the state had no acquaintance with the disputed land. He even does not know the dimensions of the acquired land. The Reference Court has discussed this issue in detail and looking to the potentiality of the land for building site awarded compensation @ Rs. 2500/- per Bigha ,which in my view is a just and adequate compensation and it can't be said on higher side.

13- I do not find any infirmity in the finding recorded by the Reference Court and needs no interference.

14- The rate of interest awarded in the case on the balance amount @ 6% per annum also do not require any interference.

15- In view of the aforesaid, the appeal lacks merit and is liable to be dismissed.

16- Accordingly the appeal is dismissed. The judgment and award dated 28-3-1985, so far as it relates to L.A. Case No. 26 of 1980, Harbans Lal Vs. Collector, is hereby confirmed.

(B.C. Kandpal, J.)

Dated: 11-09-2006

ISB